

<p><b><u>CLASS COUNSEL:</u></b>  Cochran-Bond Law Offices  624 S. Grand Avenue, Suite 2200  Los Angeles, CA 90017  mwdlawsuit@c-blaw.com  www.c-blaw.com</p>	<p><b><u>CalPERS:</u></b>  CalPERS/AESD  Attn: Cargill v. MWD  P.O. Box 942709  Sacramento, CA 94229-2709  www.calpers.ca.gov</p>	<p><b><u>MWD:</u></b>  Bergman &amp; Dacey, Inc  10880 Wilshire Boulevard  Suite 900  Los Angeles, CA 90024-4101  www.bergmandacey.com</p>
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**NOTICE OF POTENTIAL ELIGIBILITY FOR PENSION BENEFITS IN  
THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM (CALPERS)  
ARISING FROM *CARGILL v. METROPOLITAN WATER DISTRICT***

**To:** Persons who have provided services to the Metropolitan Water District of Southern California ("MWD") on a full-time basis as "Agency Temporary Employees," "Independent Contractors" and/or "Consultants" and who were not enrolled in CalPERS for the time they provided services to MWD (collectively referred to as "class members")

**Subject:** Supplemental notice of your CalPERS pension rights in connection with the pending class action lawsuit entitled *Cargill, et al. v. Metropolitan Water District of Southern California, et al.*, Los Angeles Superior Court, Case No. BC 191881

**Purpose of this Notice:**

- (1) To inform class members of their right to a determination of their eligibility to become enrolled as a member of CalPERS and to receive pension 'service credit' for the time they worked at MWD;
- (2) To inform class members that MWD has made *preliminary* assessments regarding their eligibility for CalPERS pension benefits and that class members have the right to contest MWD's preliminary assessments;
- (3) To inform class members about CalPERS' process for making an independent and final determination of a class member's eligibility for pension benefits; and
- (4) To inform you that your enrollment in CalPERS may impact your eligibility for Social Security credit and your obligation to make Social Security contributions for the time you worked at MWD.

**1. THE *CARGILL* DECISION AND CLASS MEMBERS' RIGHT TO A NEW DETERMINATION OF THEIR ELIGIBILITY FOR CALPERS PENSION BENEFITS.**

On February 26, 2004, the California Supreme Court ruled that MWD is required by state law "to enroll in CalPERS all common law employees except those excluded under a specific statutory or contractual provision." (*Metropolitan Water District of Southern California v. Superior Court (Cargill)* (2004) 32 Cal.4th 491, 496.) As a result of the decision, any individual who provided services to MWD on a full-time basis as an Agency Temporary Employee, Independent Contractor and/or Consultant may be eligible for CalPERS pension benefits if the individual provided services to MWD as a common law employee. In response to the

*Cargill* decision, MWD has made a preliminary assessment of the CalPERS eligibility for all class members, including you, by applying the common law test. However, as discussed in section 3 below, MWD's assessment is not final, but rather is subject to acceptance or rejection by CalPERS.

If you are eligible for CalPERS enrollment and service credit for the time you worked at MWD, you may benefit as follows:

- # If you receive five or more years of service credit, you will qualify for a retirement allowance.
- # If the amount of pension service credit for your MWD time is less than 5 years, you still may qualify for a retirement allowance. Your service credit for MWD time can be combined with other CalPERS service credit already obtained or that may be obtained in the future, while working for MWD or another CalPERS agency. In addition, some non-CalPERS public agencies permit employees to transfer CalPERS service credit to the agency's own pension system.
- # Even if you never qualify for a retirement allowance, service credit for your MWD time still might be of value. It has not yet been determined whether MWD or class members, such as yourself, will be required to make the employee contributions necessary to purchase retirement "service credit" for your time at MWD. If MWD is required to make the employee contributions on your behalf, the amount paid by MWD will be deposited into a separate pension account for each of the class members, including you. If you are required to make these contributions, you will be informed by CalPERS of the amount to be paid and the various installment plans available for making contributions. Regardless of whether MWD or the class member is required to make these contributions, each class member may have options such as (a) leaving the funds with CalPERS in order to obtain a retirement allowance upon meeting the criteria for such a benefit, or (b) withdrawing the funds that have been deposited in his or her pension account.

**2. MWD HAS MADE A PRELIMINARY ASSESSMENT OF EACH CLASS MEMBER'S CALPERS ELIGIBILITY; CLASS MEMBERS HAVE THE RIGHT TO CONTEST MWD'S PRELIMINARY ASSESSMENTS.**

MWD has made a preliminary assessment of CalPERS eligibility for each class member, based upon the information available to it at that time. Please contact Class Counsel in writing at the mailing address or email address set forth above to learn MWD's assessment of your eligibility for CalPERS enrollment. When you write, please provide contact information including your name, your name(s) while providing services to MWD (if different), your current mailing address, your telephone number(s) and your email address.

You have the right to contest MWD's preliminary assessment that you are eligible or ineligible for CalPERS pension benefits. Class Counsel is prepared to contest MWD's preliminary assessment for those class members whom MWD considers ineligible by presenting evidence of the class members' eligibility to CalPERS. If you wish to contest MWD's preliminary assessment that you are eligible, you are encouraged to consult with independent legal counsel regarding your potential eligibility, your rights and your legal obligations.

**3. CALPERS WILL REVIEW MWD'S PRELIMINARY ASSESSMENTS AND MAKE AN INDEPENDENT DETERMINATION OF YOUR ELIGIBILITY.**

As noted above, MWD's preliminary assessment of your eligibility for CalPERS pension benefits is not final. CalPERS will make the final decision whether to confirm or reject MWD's assessment. CalPERS will make its decision after reviewing all relevant evidence presented by the parties. It will evaluate this evidence to decide: (a) whether you must be enrolled because you provided services to MWD as its common law employee; and (b) whether you are subject to some other statutory basis for exclusion from mandatory

enrollment.

Once CalPERS has made its decision, it will send a letter to each class member. In the letter, CalPERS will advise the class member of whether or not he or she has been enrolled, inform the class member if additional enrollment information is needed, and notify the class member of the terms and conditions of his or her enrollment. CalPERS also will advise whether MWD or the class member will be required to make the employee contributions and, if the class member is required to make them, of the payment plans that will be available for doing so. CalPERS also will notify class members of their right to appeal CalPERS' eligibility determination and of the process that must be followed to appeal.

#### **4. THE RELATIONSHIP BETWEEN CALPERS ELIGIBILITY AND SOCIAL SECURITY**

Your enrollment in CalPERS may have an impact on your eligibility for Social Security credit and your obligation to make Social Security contributions for the time you provided services to MWD. If you have questions regarding the relationship between CalPERS eligibility and Social Security, you should contact the Social Security Administration.

**For additional information, you can consult the information posted on Class Counsel's website at [www.c-blaw.com](http://www.c-blaw.com), or you may contact Class Counsel through the mail or email addresses listed above. PLEASE DO NOT CONTACT THE COURT OR THE CLERK'S OFFICE FOR INFORMATION.**

Carl J. West, Judge of the Los Angeles Superior Court